

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

KEVIN USELMAN,

Case No. 12-CV-1226 (PJS/JJG)

Plaintiff,

v.

ORDER ADOPTING REPORT AND
RECOMMENDATION

JOHN C. PENTLAND,

Defendant.

Kevin Uselman, pro se.

Margaret E. Jacot, MINNESOTA ATTORNEY GENERAL'S OFFICE, for defendant.

Plaintiff Kevin Uselman alleges that, while incarcerated at the Minnesota Correctional Facility at Rush City, he was repeatedly assaulted by fellow prisoners. Uselman further alleges that defendant John C. Pentland — a lieutenant with the Minnesota Department of Corrections — failed to protect him from these assaults. Based on those allegations, Uselman filed this action against Pentland seeking compensation for his injuries pursuant to 42 U.S.C. § 1983.

In a Report and Recommendation (“R&R”) dated January 30, 2014, Magistrate Judge Jeanne J. Graham recommends granting Pentland’s motion for summary judgment due to Uselman’s failure to exhaust administrative remedies, as required under the Prison Litigation Reform Act. *See* 42 U.S.C. § 1997e(a). This matter is before the Court on Uselman’s objection

to the R&R.¹ The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Based on that review, the Court adopts the R&R and dismisses the complaint.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Court hereby OVERRULES plaintiff Kevin Uselman's objection [ECF No. 44] and ADOPTS the January 30, 2014 R&R [ECF No. 42]. Accordingly, IT IS HEREBY ORDERED THAT:

1. The February 19, 2014 order [ECF No. 43] and February 20, 2014 judgment [ECF No. 45] are VACATED.
2. Defendant John C. Pentland's motion for summary judgment [ECF No. 30] is GRANTED.
3. The complaint [ECF No. 1] is DISMISSED WITH PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 26, 2014

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge

¹The parties were given until February 14, 2014 to file and serve any objections to the R&R. Having received no objections, the Court entered an order on February 19, 2014 adopting Judge Graham's R&R, granting Pentland's motion for summary judgment, and dismissing the complaint. *See* ECF No. 43. Shortly after the Court entered its order, Uselman's objection was docketed in this case. *See* ECF No. 44. That objection appears to be timely. *See* Fed. R. Civ. P. 6(d). Accordingly, the Court vacates its previous order and vacates the judgment that was entered pursuant to that order.